

REMARKS

By this amendment, claims 1, 11 and 18 have been amended. Claims 1-28 remain in the application. This application has been carefully considered in connection with the Examiner's Action. Reconsideration, and allowance of the application, is respectfully requested.

Rejection under 35 U.S.C. §102

Claim 1:

Claim 1 recites a method of determining proximity of a target node to a source node, comprising:

- preparing a first response at the target node prior to receiving any part of a query from the source node;

- communicating the query from the source node to the target node;

- communicating the first response from the target node to the source node, immediately after the query is received and before the query is processed at the target node;

- receiving the first response at the source node;

- processing the query at the target node to produce therefrom a second response that facilitates a verification of the target node and its first response;

- communicating the second response from the target node to the source node;

- determining a measure of communication time between communicating the query and receiving the first response; and

- determining the proximity of the target node based on the measure of communication time, wherein determining proximity includes comparing the measure of communication time with a threshold value, and if the communication time is below the threshold, the target node is determined to be local, otherwise the target node is determined to be remote, further comparing the measure of communication time with multiple applied thresholds for providing a relative measure of a degree of remoteness of the target node from the source node, and wherein the source node uses the remote/local proximity determination to control subsequent communications with the target node and to control access of the target node to system resources based on the determined proximity.

Support for the amendments to claim 1 (as well as for claims 11 and 18) can be found in the specification at least on page 2, lines 14-15 and page 3, lines 14-27. The amendments are supported by the specification and drawings as originally filed, thus no new matter has been introduced.

Claims 1-7 and 11-25 stand rejected under 35 U.S.C. §102(e) as being anticipated by Lundkvist (US-20030184431; hereafter "**Lundkvist**"). With respect to claim 1, Applicant respectfully traverses this rejection for at least the following reasons.

The PTO provides in MPEP § 2131 that
"[t]o anticipate a claim, the reference must teach every element of the claim...."

Therefore, with respect to claim 1, to sustain this rejection the **Lundkvist** reference must contain all of the above claimed elements of the respective claims. However, as amended herein and contrary to the examiner's position that all elements are disclosed in the **Lundkvist** reference, the reference does not disclose "determining proximity [*that*] includes comparing the *measure of communication time* with a *threshold value*, and *if* the communication time is *below the threshold*, the *target node* is *determined* to be local, *otherwise* the target node is determined to be remote, further comparing the measure of communication time with multiple applied thresholds for providing a relative measure of a degree of remoteness of the target node from the source node, *and* wherein the *source node* uses the *remote/local proximity determination* to *control* subsequent communications with the target node and to *control* access of the target node to system resources *based on* the determined proximity" (emphasis added) as is claimed in claim 1. Therefore, the rejection is not supported by the **Lundkvist** reference and should be withdrawn.

In contrast, the **Lundkvist** reference discloses a method for controlling authorization to an object in which a signal communication is established between the

object and a wireless portable unit when a tripping device on the object is actuated. The signal communications includes first and second signals. Verification information is checked and a distance is measured between the object and the portable unit. Authorization is confirmed if both the checked verification information is approved and the measured distance is less than a predetermined value. (see Lundkvist, Abstract). The **Lundkvist** reference is thus directed to “confirming authorization” of a wireless portable unit to an object. Accordingly, the **Lundkvist** reference does not disclose, nor does it suggest, the *specific feature limitations* of “*determining proximity* [that] includes comparing the measure of communication time with a threshold value, and if ... below ... determined local, otherwise ... remote, further comparing the measure of communication time with *multiple applied thresholds* ... for providing a *relative measure* of a *degree of remoteness* ... wherein the source node uses the *remote/local proximity determination* to control *subsequent communications* ... and ... *access* ... to system resources based on the *determined proximity*” (emphasis added) as is specifically indicated herein above and claimed in claim 1.

Accordingly, claim 1 is allowable and an early formal notice thereof is requested. Claims 2-7 depend from and further limit allowable independent claim 1 and therefore are allowable as well. Accordingly, the 35 U.S.C. §102(e) rejection thereof has now been overcome.

Claim 11 has been amended in a manner similar to the amendments to claim 1. Accordingly, for similar reasons as stated with respect to overcoming the rejection of claim 1, claim 11 is believed allowable and an early formal notice thereof is requested. Claims 12-17 depend from and further limit allowable independent claim 11 and therefore are allowable as well. The 35 U.S.C. §102(e) rejection thereof has now been overcome. Withdrawal of the rejection is respectfully requested.

Claim 18 has been amended in a manner similar to the amendments to claim 1. Accordingly, for similar reasons as stated with respect to overcoming the rejection of claim 1, claim 18 is believed allowable and an early formal notice thereof is requested. Claims 19-25 depend from and further limit allowable independent claim 18 and therefore are allowable as well. The 35 U.S.C. §102(e) rejection thereof has now been overcome. Withdrawal of the rejection is respectfully requested.

Rejection under 35 U.S.C. §103

Claims 8-10 and 26-28 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lundkvist (US-20030184431; hereafter "**Lundkvist**"), and further in view of Davis et al. (US-6088450; hereafter "**Davis**"). Claims 8-10 depend from and add further limitations, in a patentable sense, to allowable independent claim 1 and therefore are allowable as well. Claims 26-28 depend from and add further limitations, in a patentable sense, to allowable independent claim 18 and therefore are allowable as well. The 35 U.S.C. §103(a) rejection thereof has now been overcome. Withdrawal of the rejection is respectfully requested.

Conclusion

Except as indicated herein, the claims were not amended in order to address issues of patentability and Applicants respectfully reserve all rights they may have under the Doctrine of Equivalents. Applicants furthermore reserve their right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or a continuation application. In addition, the Office Action contains a number of statements characterizing the claims, the Specification, and the prior art. Regardless of whether such statements are addressed by Applicant, Applicant refuses to subscribe to any of these statements, unless expressly indicated by Applicant.

The matters identified in the Office Action of September 30, 2010 are now believed resolved. Accordingly, the application is believed to be in proper condition for allowance. The amendments herein are fully supported by the original specification and drawings; therefore, no new matter is introduced. An early formal notice of allowance of claims 1-28 is requested.

Respectfully submitted,

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